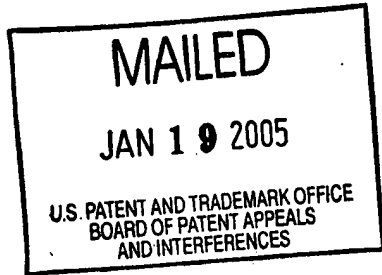


The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 26



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LEANDRE ADIFON, RICHARD J. ERICSON,
DAVID WAYNE JONES, ARMANDO SERVIA
and JOSE SEVILLEJA

Appeal No. 2005-0275
Application No. 09/163,207

ON BRIEF

Before COHEN, FRANKFORT and MCQUADE, Administrative Patent Judges.

MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Leandre Adifon et al. appeal from the final rejection (Paper No. 15) of claims 1, 2, 6 through 8, 10, 13 and 18. Claims 4, 5, 9, 11, 12, 14 through 17 and 19 through 23, the only other claims pending in the application, stand withdrawn from consideration.

THE INVENTION

The invention relates to "an elevator system including a drive motor provided adjacent to a hoistway door" (specification, page 1). Representative claim 1 reads as follows:

1. An elevator system, comprising:

a hoistway having a plurality of hoistway doors and a ceiling;

an elevator car and at least one counterweight located in the hoistway; and

a drive motor drivingly coupled to the elevator car and counterweight via elongated connectors, the drive motor being located immediately adjacent to one of a top and bottom portion of a hoistway door and below the hoistway ceiling.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

| | | |
|---|-----------|---------------|
| Moore | 4,280,593 | Jul. 28, 1981 |
| Aulanko et al. (Aulanko) | 5,490,578 | Feb. 13, 1996 |
| Takahashi et al., Japanese Patent Document (Takahashi) ¹ | 53-73751 | Jun. 30, 1978 |
| Sugiyama, Japanese Patent Document ¹ | 63-178277 | Nov. 18, 1988 |

¹ The record contains an English language translation of this reference prepared on behalf of the United States Patent and Trademark Office.

THE REJECTIONS

Claims 1, 2 and 6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Takahashi.

Claims 7, 8 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Takahashi in view of Sugiyama.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Takahashi in view of Moore.

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Takahashi in view of Aulanko.

Attention is directed to the main and reply briefs (Paper Nos. 18 and 21) and the answer (Paper No. 19) for the respective positions of the appellants and the examiner regarding the merits of these rejections.

DISCUSSION

I. The 35 U.S.C. § 102(b) rejection of claims 1, 2 and 6 as being anticipated by Takahashi

Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). In other words, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field

of the invention. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

Figure 1 of the Takahashi reference illustrates a conventional elevator system comprising a riding cage 1, a rope 2, a cage pulley 3, a diverting pulley 4, a winch 5, a sheave 6, a balance weight pulley 7, a balance weight 8, a beam 9 supporting the pulleys 3, 4 and 7, a beam 10 supporting the winch 5, a member 11 connecting the beams 9 and 10, a base 12 supporting the beam 10 and a column 13 bracing the beam 10 against upward forces. Figure 1 also shows (1) the riding cage 1 and balance weight 8 disposed for vertical movement in a hoistway having a ceiling and a hoistway door and (2) the winch located adjacent to a top portion of the hoistway door and below the hoistway ceiling.

As framed and argued by the appellants, the dispositive issue with respect to the anticipation rejection of independent claim 1, and dependent claims 2 and 4, is whether Takahashi meets the limitation in claim 1 requiring the drive motor to be located "immediately adjacent" to one of a top and bottom portion of a hoistway door. The appellants, noting that this "immediately adjacent" relationship is shown in Figure 1 of the instant application, contend that Takahashi's drive motor (winch 5) is not so located because

[i]mmediately above the [Takahashi] hoistway door is a wall that extends up to the ceiling above the landing. Between the hoistway door and the drive motor are the extension of the hoistway wall, the ceiling above the landing area, and foundation type material 12 to support the drive motor [winch 5]. Even assuming for arguments sake that the drive motor 5 of Takahashi is adjacent to the hoistway door, the drive motor of Takahashi is clearly not 'immediately adjacent' to the hoistway door [main brief, page 4].

The "immediately adjacent" language at issue involves words of degree. When words of degree are employed in a claim, it must be determined whether the underlying specification provides some standard for measuring the degree such that one of ordinary skill in the art would understand what is claimed when the claim is read in light of the specification. See Seattle Box Co. v. Industrial Crating & Packing, Inc., 731 F.2d 818, 826, 221 USPQ 568, 573-74 (Fed. Cir. 1984). The standard provided by the appellants' specification for evaluating the meaning of "immediately adjacent" consists of the schematic illustrations of the elevator system depicted in Figures 1 and 3 which show the drive motor located "immediately above a hoistway door" (specification, page 2) and "immediately below a hoistway door" (specification, page 2), respectively.² A comparison between

² In contrast, Figure 4 shows an elevator system wherein the drive motor is provided "at a remote location at an opposite side of a hallway" (specification, page 5) and Figure 7 shows a system wherein the drive motor also is remotely located relative to the hoistway door.

these application drawings and Figure 1 in the Takahashi reference supports the examiner's determination that Takahashi fairly discloses a drive motor (winch 5) located "immediately adjacent" to a top portion of a hoistway door as disclosed and claimed by the appellants.

Hence, the appellants' position that the subject matter recited in claims 1, 2 and 6 distinguishes over that disclosed by Takahashi is not persuasive. We shall therefore sustain the standing 35 U.S.C. § 102(b) rejection of claims 1, 2 and 6 as being anticipated by Takahashi.

II. The 35 U.S.C. § 103(a) rejection of claims 7, 8 and 18 as being unpatentable over Takahashi in view of Sugiyama

The appellants submit that the rejection of claims 7, 8 and 18 is unsound because the combined teachings of Takahashi and Sugiyama would not have suggested an elevator system meeting the recitations in these claims of a movable panel protruding externally of the hoistway into the adjacent hallway to provide access to the drive motor from a position in front of the hoistway door.

The examiner, conceding that Takahashi is deficient in this regard, turns to Sugiyama's disclosure of an elevator system having an opening 7 with associated movable panels (see Figures 2 and 5) for permitting inspection and repair of an elevator winch

6 and control device 5. According to the examiner, it would have been obvious "to modify the [winch or motor] housing of Takahashi by adding the movable panel of Sugiyama in order to facilitate easier and safer access to the motor for inspection and maintenance" (answer, page 5).

The appellants do not dispute the propriety of combining Takahashi and Sugiyama in the manner generally proposed by the examiner, but do contend that the combination would not result in an elevator system having a movable panel protruding externally of the hoistway into the adjacent hallway to provide access to the drive motor from a position in front of the hoistway door. This line of argument is well taken. Sugiyama (see Figure 1) does not teach or suggest the recited location of the movable panel and the only potential panel location in the Takahashi system which would satisfy the claimed location is the hallway ceiling directly beneath the drive motor or winch 5. This location, however, is not amenable to the inspection and repair objectives desired by Sugiyama due to the intervening presence of the winch supporting beam 10 and base 12. Thus, the only suggestion for combining Takahashi and Sugiyama so as to result in the subject matter recited in claims 7, 8 and 18 stems from hindsight knowledge impermissibly derived from the appellants' disclosure.

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Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claims 7, 8 and 18 as being unpatentable over Takahashi in view of Sugiyama.

III. The 35 U.S.C. § 103(a) rejection of claim 10 as being unpatentable over Takahashi in view of Moore

We shall sustain the standing 35 U.S.C. § 103(a) rejection of dependent claim 10 as being unpatentable over Takahashi in view of Moore since the appellants have not challenged such with any reasonable specificity, thereby allowing dependent claim 10 to stand or fall with parent independent claim 1 (see In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987)).

IV. The 35 U.S.C. § 103(a) rejection of claim 13 as being unpatentable over Takahashi in view of Aulanko

We shall sustain the standing 35 U.S.C. § 103(a) rejection of dependent claim 13 as being unpatentable over Takahashi in view of Aulanko since the appellants have not challenged such with any reasonable specificity, thereby allowing dependent claim 10 to stand or fall with parent independent claim 1 (see Nielson, supra).

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SUMMARY

The decision of the examiner to reject claims 1, 2, 6 through 8, 10, 13 and 18 is affirmed with respect to claims 1, 2, 6, 10 and 13, and reversed with respect to claims 7, 8 and 18.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136 (a).

AFFIRMED-IN-PART

IRWIN CHARLES COHEN
Administrative Patent Judge

Charles E. Frankfort
CHARLES E. FRANKFORT
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

JOHN P. MCQUADE
Administrative Patent Judge

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